

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION
895 AEROVISTA PLACE, SUITE 101
SAN LUIS OBISPO, CALIFORNIA**

RESOLUTION NO. R3-2008-0049 (DRAFT)

Waiver of Waste Discharge Requirements

For

**ENGINEERED ONSITE DISPOSAL SYSTEM
De LUZ RESIDENCE, 350 VIA LOS TULARES ROAD
CARMEL VALLEY
(APN 197-132-006)
Monterey County**

The California Regional Water Quality Control Board, Central Coast Region (hereinafter Water Board) finds that:

1. California Water Code Section 13260(a) requires that any person discharging waste, or proposing to discharge waste within any region that could affect the quality of the waters of the state, other than into a community sewer system, shall file with the appropriate Regional Water Board a report of the discharge ("report of waste discharge" or "ROWD") or other report containing such information and data as may be required by the Regional Board.
2. California Water Code section 13263 authorizes the Water Board to prescribe waste discharge requirements that implement the Water Board's Water Quality Control Plan.
3. California Water Code Section 13269 authorizes the Water Board to waive the issuance of waste discharge requirements provided that the waiver of waste discharge requirements is consistent with applicable water quality control plans and is in the public interest. In addition, any waiver must be conditional, may not exceed five years in duration, and may be terminated at any time. The waiver must also include monitoring unless the Regional Board determines that the discharges do not pose a significant threat to water quality.
4. The Water Quality Control Plan for the Central Coast Region (Basin Plan) designates the beneficial uses of waters within the Region, specifies the water quality objectives to protect the beneficial uses, establishes prohibitions, and establishes implementation policies to implement the water quality objectives. Pursuant to Chapter 2 of the Basin Plan, present and potential beneficial uses of groundwater (both shallow and deeper water-bearing zones) underlying the property include domestic and municipal water supply, agricultural water supply,

and industrial water supply. The Basin Plan incorporates the state's drinking water standards adopted by the California Department of Public Health as water quality objectives.

BACKGROUND

5. The subject site consists of a 2.58-acre residential property located in Carmel Valley. The property is within an unincorporated portion of Monterey County and is not within a sewer services district and requires an onsite wastewater disposal system. The subject site is being redeveloped following destruction of the former residential dwelling by fire. Site conditions generally consist of steep slopes covered in dense chaparral brush underlain by well draining soils. The May 14, 2006 well driller's report for the subject site domestic water supply well indicates groundwater beneath the property is encountered at approximately 120 feet below ground surface. The subject property drains to and encompasses a seasonal unnamed drainage tributary to the Carmel River. The onsite wastewater system for the former residence consisted of a conventional septic tank that reportedly discharged directly to the unnamed drainage channel.
6. The property owner, Jan De Luz (hereafter Discharger), applied for a permit with the Monterey County Division of Environmental Health (County) to replace the existing onsite wastewater disposal system. The proposed onsite disposal system consists of an advanced treatment system with ultraviolet disinfection and shallow pressurized disposal trenches. The advanced treatment system and disposal trenches were designed to overcome the physical site constraints due to steep slopes. A geotechnical investigation report was also provided to address potential slope stability issues.
7. The shallow pressurized disposal trenches are proposed on slopes exceeding 20% immediately adjacent to slopes in excess of 50%. The Basin Plan recommends against citing onsite wastewater disposal systems on slopes in excess of 20% and recommends minimum setbacks from slopes or cuts in excess of 30%. Neither of these "Site Suitability" recommendations could be achieved via conventional methods due to the physical conditions of the subject property. A Basin Plan exemption is therefore required for variances from the recommended slope and slope setback "Site Suitability" criteria.
8. The proposed system generally meets all other applicable site suitability and design criteria pursuant to the Basin Plan.
9. The Water Board's Water Quality Control Plan (Basin Plan) and July 1979 Memorandum of Understanding between the Central Coast Water Board and County specifically prohibit the County from approving engineered onsite disposal systems for sites unsuitable for standard systems. The Basin Plan allows that the Water Board or Executive Officer may grant exemptions for engineered onsite disposal systems or exemptions to specific Basin Plan criteria for onsite

wastewater disposal systems given sufficient justification that the continued operation of such systems in a particular area will not individually or collectively, directly or indirectly, result in pollution or nuisance, or affect water quality adversely.

10. An application containing a Report of Waste Discharge Supplemental Form for Regional Board Subsurface Disposal Exemption Submittal, design documents for the proposed engineered system and geotechnical investigation report was submitted to the Water Board by the County on behalf of the Discharger under cover of a letter dated May 2, 2008. The Monterey County Department of Health certified the Supplemental Form on May 2, 2008. The onsite disposal system design was prepared by Andrew Brownstone, BioSphere Consulting, and is dated January 29, 2008. The geotechnical investigation report (slope stability assessment) was prepared by Richard Dante, Soil Surveys, Inc., and is dated April 15, 2008.
11. The Executive Officer approved the Basin Plan exemption and notified the Discharger of the proposed Waiver on June 20, 2008.
12. The Water Board has considered the information provided in the application and has required the Discharger, as a condition of this waiver, to comply with all applicable Monterey County ordinances and permit requirements and applicable Basin Plan requirements for onsite disposal systems.
13. The proposed system will also be subject to nonstandard permit conditions applied by the County prior to issuing a building permit. The nonstandard permit conditions require an operations and maintenance contract and deed notification. The nonstandard permit conditions and deed notification (June 27, 2007 template) are attached hereto as Exhibits 1 and 2, respectively, and incorporated herein by reference.
14. Individual subsurface disposal systems for domestic residences are categorically exempt from the California Environmental Quality Act as set forth in California Code of Regulations, Title 14, Section 15303.
15. The Water Board finds that if the onsite disposal system is properly operated and maintained in accordance with the conditions of this Resolution this waiver of waste discharge requirements is in the public interest and consistent with the Basin Plan.
16. This waiver of waste discharge requirements is in the public interest because:
 - a) The discharge is already regulated by another governmental entity;
 - b) This Waiver requires the discharger to observe reasonable practices to minimize the deleterious effects of the discharge;
 - c) This Waiver requires the discharger to implement feasible treatment methods to

- control the waste constituents in the discharge; and
- d) This Waiver includes conditions that will adequately protect beneficial uses while allowing the Water Board to use more of its resources to conduct field oversight, public outreach and, where necessary, enforcement.
17. The proposed onsite disposal system is regulated by Monterey County and must comply with County ordinances and permit requirements and Basin Plan requirements to implement design and operational controls, maintenance activities, and regular monitoring to prevent water quality impacts.
18. The conditions of this waiver are consistent with the Basin Plan because it:
- a) Prohibits pollution, contamination or nuisance;
 - b) Requires monitoring and compliance with applicable Basin Plan prohibitions and Monterey County Ordinances and permit requirements; and
 - c) Requires the Discharger to grant access to Water Board and Monterey County staff to perform inspections.
 - d) Requires the onsite disposal system to comply with the Basin Plan's criteria for onsite systems.
19. Pursuant to California Water Code Section 13269, this action waiving the issuance of waste discharge requirements for this on-site domestic wastewater disposal system: (a) is conditional, (b) may be terminated at any time, (c) does not permit an illegal activity, (d) does not preclude the need for permits which may be required by other local or governmental agencies, and (e) does not preclude the Water Board from administering enforcement remedies (including civil liability) pursuant to the California Water Code.
20. Operation of the proposed onsite disposal system consistent with this Resolution is not anticipated to degrade groundwater and is consistent with State Water Resources Control Board Resolution 68-16 ("Policy for Maintenance of the High Quality of Waters of the State"). State Water Board Resolution No. 68-16 requires the Regional Board to maintain the high quality of waters of the state unless the Regional Board determines that some degradation of waters is consistent with maximum benefit to the people of the state, will not unreasonably affect present and anticipated beneficial use of such water and will not result in water quality less than set forth in the Basin Plans. The Regional Boards must ensure that waste discharge requirements will result in best practicable treatment or control of the discharge necessary to ensure that pollution or nuisance will not occur and the highest water quality is maintained. In short, the degradation may not violate water quality objectives and must not unreasonably affect existing and designated beneficial uses. Operation of the proposed system is consistent with Resolution 68-16 because the system is designed to treat the domestic wastewater to secondary standards (85% reduction of biochemical oxygen demand and total suspended solids), remove 65% of total influent nitrogen, and disinfect the effluent prior to disposal via ultraviolet treatment.

21. The monitoring and reporting requirements of this Resolution are imposed pursuant to California Water Code Section 13267. The monitoring and reporting are necessary to ensure compliance with the conditions of this Resolution and to verify the adequacy and effectiveness of the conditions.
22. The Regional Board provided an opportunity for a public hearing on September 5, 2008, in San Luis Obispo, California, and considered all comments and evidence concerning this matter.
23. Any person affected by this action of the Regional Board may petition the State Water Resources Control Board (State Board) to review the action in accordance with section 13320 of the California Water Code and Title 23, California Code of Regulations, Section 2050. The State Board must receive the petition within 30 days of the date of this Resolution. Copies of the law and regulations applicable to filing petitions will be provided upon request.

THEREFORE BE IT RESOLVED:

1. In accordance with California Water Code Sections 13267 and 13269, waste discharge requirements for the proposed onsite domestic wastewater disposal system are hereby waived subject to the following conditions:
 - a) The onsite disposal system shall be installed under the oversight of Monterey County and the designer, Andrew Brownstone, per the January 29, 2008 Alternative Onsite Wastewater System Design by Andrew Brownstone, BioSphere Consulting, and be operated and maintained in accordance with applicable Monterey County Ordinances and permit conditions, the Basin Plan criteria and manufacturer specifications.
 - b) The Discharger shall implement all recommendations contained within the April 15, 2008, Soil Surveys, Inc. report, Geotechnical Investigation for Assessment of Slope Stability for Alternative Wastewater System [for the subject site].
 - c) The Discharger shall comply with all applicable Monterey County Ordinances and Permit Conditions [including the nonstandard permit conditions attached as Exhibits 1 and 2].
 - d) The Discharger and future property owners shall be subject to the requirements of the County's pending Onsite Wastewater Management Plan.
 - e) Peak daily flow shall not exceed 1,800 gallons per day.
 - f) Use of the individual sewage disposal system shall not create a condition of pollution, contamination, or condition of nuisance, as defined by CWC Section 13050.
 - g) Only domestic wastewater shall be discharged to the individual sewage disposal system.

- h) The use of self-regenerating water softeners is prohibited; water softening devices shall be off-site regenerated cartridge type only.
 - i) The Discharger shall install and utilize low flow plumbing fixtures on all appurtenances such as toilets, showers and faucets. Low flow dishwashers and front loading clothes washing machines are also strongly recommended.
 - j) The Discharger shall immediately notify the Water Board and Monterey County of any proposed change(s) in discharge volume, nature, or location.
 - k) The Discharger shall immediately notify the Water Board and Monterey County of any discharges threatening water quality or public health.
 - l) The Discharger shall allow the Water Board and Monterey County to inspect the onsite disposal system at any time to evaluate compliance with this Waiver.
 - m) Operation of the sewage disposal system shall not result in the daylighting (surfacing) of effluent from the disposal area or other portions of the system.
 - n) The Discharger and future property owners shall also provide copies of all monitoring data per County requirements to the Water Board.
 - o) The Discharger shall inspect the sewage disposal system every two years for solids buildup and have it pumped out as required by a licensed septic tank contractor.
 - p) The Discharger shall have the shallow pressurized trench laterals manually flushed annually by a qualified technician.
 - q) If the Discharger transfers the property, the Discharger shall notify the new owner of this Waiver of Waste Discharge Requirements and shall notify the Water Board of the transfer within 30 days of transfer.
2. This Waiver shall not create a vested right to discharge and all such discharges shall be considered a privilege, as provided for in CWC Section 13263.
 3. The Executive Officer or Water Board may terminate the applicability of the Waiver described herein at any time.
 4. This Waiver shall become effective on **September 5, 2008**, and shall expire on **September 5, 2013**.
 5. The Discharger may be subject to enforcement actions for violations of this Waiver pursuant to Division 7 of the California Water Code. As provided by California Water Code Section 13350(a), the Discharger may be civilly liable if in violation of a waiver condition or causes waste to be deposited where it is discharged, into the waters of the State and creates a condition of pollution or nuisance.

I, Roger W. Briggs, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, Central Coast Region, on July 11, 2008.

Roger W. Briggs
Executive Officer

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Permit Cond. Number	Mitig. Number	Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
		Operations and Maintenance Contract Submit a signed operations and maintenance contract from a licensed septic contractor prior to final of building permit. Contract must include: <ul style="list-style-type: none"> • Statement that if either party fails to comply with the contract EHD will be notified. • Effluent quality reports shall be submitted to EHD bi-annually. • EHD shall be notified at each renewal term, and a contract shall be submitted to EHD. • All testing requirements in Interim Ordinance 5093, and other county, state and federal regulations shall be complied with. (Environmental Health)	Submit a signed operations and maintenance contract from a licensed septic contractor to EHD for review and approval, prior to final of building permit. All lab results and service reports shall be submitted to the EHD on a bi-annual basis. All renew contracts shall be submitted to EHD for review and approval.	CA Licensed Engineer /Owner/ Applicant	Submit contract prior to building permit final. Operations and Maintenance Contract is an ongoing condition	
		Deed Notice – Alternative Wastewater Treatment System The applicant shall record a deed notification with the Monterey County Recorder for parcel 241-052-001-000 with the approved language indicating that an alternative onsite wastewater treatment system is installed on the property. Contact EHD for specific wording to be included on the deed notification.	Contact EHD for specific deed notice wording. Record deed notice.	CA Licensed Engineer /Owner/ Applicant	Record deed notice prior to final of building permit.	

WHEN RECORDED MAIL TO:
Monterey County Health Dept.
Division of Environmental Health
Environmental Health Review
1270 Natividad Rd.
Salinas, CA. 93906

THIS SPACE FOR RECORDER'S USE ONLY

TITLE OF DOCUMENT
CONDITIONAL WASTEWATER TREATMENT AND
DISPERSAL SYSTEM AGREEMENT

Document Instructions:

Property owner to provide required information below and sign document before a Notary Public.

Document is to be notarized on the form below.

The signed document is to be recorded with the County of Monterey Recorder's Office. Recorder's copies of the document shall be distributed to property owner, Monterey County Health Department and the manufacturer's authorized servicing agent.

Subject Parcel: Monterey County Assessors Parcel Number ____ - ____ - ____

The Monterey County Health Department, Environmental Health Division has determined that a standard onsite wastewater system for the subject parcel cannot meet minimum public health requirements. The Environmental Health Division has approved the installation and use of a specific wastewater treatment system suitable for conditions affecting subject parcel. A record of septic permit including the name and model number of the treatment unit is on file with the Environmental Health Division.

Property owner agrees that the subject parcel shall be held, occupied, sold and conveyed subject to the following restrictions and conditions which shall run with the real property and be binding upon all parties having any right, title or interest in said property.

Owner agrees to operate the wastewater treatment system in accordance with the manufacture's instructions and all applicable Monterey County regulations.

Subject parcel shall be subject to future federal, state or local laws and ordinances regarding the permitting, operation and maintenance or monitoring of alternative/enhanced on site wastewater systems.

Owner agrees to enter into and maintain in effect a maintenance contract with the manufacturer of the system or a company certified through the manufacturer for purposes of scheduled inspection and maintenance of the system per manufacturer's specification

and any National Sanitation Foundation (NSF) standards consistent with NSF approval of the treatment system. The maintenance contact shall include an alarm service so that the owner may be notified of any breakdown or failure of the treatment system.

The provisions of this Declaration are declared to be specifically enforceable through this recorded document and applicable Monterey County ordinances adopted pursuant to the permitting and operation of an On-site Advanced Wastewater Treatment System.

In the event that it becomes necessary for the County to commence an action of law to enforce any of the conditions or restrictions contained herein, the County shall be entitled to recover reasonable attorney's fees and costs, as may be determined by the court, from the property owner against whom such action is maintained. This provision shall be deemed to be accepted and agreed to by any person to whom any lot herein described shall be conveyed.

Property Owner's Signature

Date

Print Property Owner's Name: _____

Property Physical Address: _____

Assessor's Parcel Number: _____

STATE OF CALIFORNIA

COUNTY OF MONTEREY} ss.

On _____ before me, _____
(here insert name
and title of the officer), personally
appeared _____

_____, personally known to me (or
proved to me on the basis of satisfactory evidence) to
be the person(s) whose name(s) is/are subscribed to
the within instrument and acknowledged to me that
he/she/they executed the same in his/her/their
authorized capacity(ies), and that by his/her/their
signature(s) on the instrument the person(s), or the
entity upon behalf of which the person(s) acted,
executed the instrument.